

United States Government

NATIONAL LABOR RELATIONS BOARD

Region 6

1000 Liberty Avenue - Room 1501

Pittsburgh, PA 15222-4173

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www.nlrb.gov

October 30, 2003

Re: Climatrol, Inc.

Case 6-RD-1496

Mr. John J. Rose
P. O. Box 277
Lumberport, WV 26386-0277

Dear Mr. Rose:

The above-captioned case, petitioning for an investigation and decertification of representative under Section 9(c) of the National Labor Relations Act, has been carefully investigated and considered.

As a result of the investigation, it appears that further proceedings are not warranted at this time inasmuch as an unfair labor practice charge was filed by the Union in Case 6-CA-33544 on July 15, 2003 alleging that the Employer assisted employees in the solicitation of the above-captioned decertification petition in violation of Section 8(a)(1) of the Act. Thereafter, this Office determined that there was sufficient evidence to establish that the Employer had in fact assisted employees in the filing of the decertification petition, and it was decided that a Complaint would issue, absent settlement. Under these circumstances, and since Case 6-CA-33544 is still pending final disposition, I have concluded that the petition is defective because a question concerning representation cannot be raised if the showing of interest is tainted by Employer support. See: City Markets, Inc., 273 NLRB 469 (1984).

Notwithstanding the above, the Union filed a prior unfair labor practice charge against the Employer in Case 6-CA-32574 alleging that the Employer had engaged in bad-faith bargaining during the course of contract negotiations. The parties entered into an informal Settlement Agreement in Case 6-CA-32574, which was approved by this Office on March 24, 2003. That Settlement Agreement required, among other things, that the Employer bargain in good faith with the Union in order to provide the parties with an opportunity to reach a collective-bargaining agreement. The Union is entitled to a reasonable time to do so, free from any challenge to the Union's status as the majority representative of the employees. Your petition was filed on June 12, 2003. Under these circumstances, I have concluded that the parties did not have a reasonable period of time from March 24 until June 12 to reach a contract. See: Van Ben Industries, Inc., 285 NLRB 77 (1987); VIP Limousine, Inc., 276 NLRB 871 (1985); Poole Foundry and Machine Company, 95 NLRB 34 (1951).

For the above reasons, the decertification petition must be dismissed.

Pursuant to the National Labor Relations Board Rules and Regulations, Series 8, as amended, you may obtain a review of this action by filing a request therefor with the National Labor Relations Board, addressed to the Executive Secretary, National Labor Relations Board, Washington, DC, 20570. A copy of such request for review must be served on the Regional Director and each of the other parties to the proceeding. This request for review must contain a complete statement setting forth the facts and reasons upon which it is based. The request for review (eight copies) must be received by the Executive Secretary of the Board in Washington, DC, by the close of business at 5:00 p.m., on November 13, 2003. Upon good cause shown, however, the Board may grant special permission for a longer period within which to file. The request for extension of time should be submitted to the Executive Secretary of the Board in Washington, DC, and a copy of any such request for extension of time should be submitted to the Regional Director, and to each of the other parties to this proceeding.

The request for review and any request for extension of time for filing must include a statement that a copy has been served on the Regional Director and on each of the other parties to this proceeding, and the copy must be served in the same or faster manner as that utilized in filing the request with the Board. When filing with the Board is accomplished by personal service, however, the other parties shall be promptly notified of such action by telephone, followed by service of a copy by mail or telegram.

Very truly yours,

Gerald Kobell
Regional Director

cc:

Lester A. Heltzer, Executive Secretary
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